

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL AARON MURRAY,

Defendant.

NO: 2:18-CR-0053-TOR

ORDER DISMISSING COUNTS 2  
AND 4 OF THE SUPERSEDING  
INDICTMENT WITH PREJUDICE

BEFORE THE COURT are the Defendant's two Motions to Dismiss Count 4 of the Superseding Indictment, ECF Nos. 163, 165, and the Government's Motions to Dismiss Counts 2 and 4 of the Superseding Indictment, ECF Nos. 166, 167. The Court has reviewed the motions and the file therein and is fully informed.

The Government seeks to dismiss with prejudice counts 2 and 4 of the Superseding Indictment in this matter pursuant to Federal Rule Criminal Procedure 48(a). Additionally, the Government seeks to have the Court set aside its Order

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1 compelling disclosure of the source code for the Torrential Downpour software  
2 program. The distribution of child pornography charge (Count 2) is premised on  
3 the use of Torrential Downpour to conduct single-source downloads from  
4 Defendant. To avoid disclosure of this investigative tool, the government is  
5 seeking dismissal of Count 2 and represents that it will not offer evidence based on  
6 Torrential Downpour at trial, unless the door is opened by the defense. ECF No.  
7 166 at 3-4.

8 The Court only granted the defense access to the Torrential Downpour  
9 source code in order to defend Count 2 of the Superseding Indictment.  
10 Accordingly, if Count 2 is dismissed, the Court's disclosure order is no longer  
11 necessary. For good cause shown, the Court grants the motions, but makes no  
12 judgment as to the merit or wisdom of this dismissal.

13 Accordingly, **IT IS HEREBY ORDERED:**

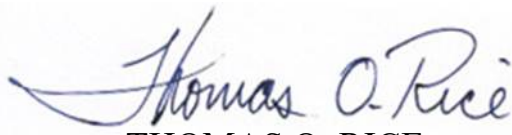
- 14 1. The Government's Motions to Dismiss Counts 2 and 4 of the  
15 Superseding Indictment, ECF Nos. 166, 167, are **GRANTED**. Counts 2  
16 and 4 of the Superseding Indictment are dismissed with prejudice.
- 17 2. The Government's Motion to Set Aside the Court's disclosure order  
18 (ECF No. 160) is **GRANTED**. The Court's Order at ECF No. 160 is  
19 **VACATED**.

1 3. Defendant's two pending Motions to Dismiss Count 4, ECF Nos. 163,  
2 165, are **DENIED as moot**.

3 The District Court Executive is hereby directed to enter this Order and  
4 provide copies to counsel.

5 DATED August 31, 2020.



  
THOMAS O. RICE  
United States District Judge